



County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (619) 694-2960

July 8, 1993

TO: Director
Deputy Directors
All Chiefs
All Community Planning Division Regional Planners
All Zoning Staff
All Building Counter Staff, Kearny Mesa and San Marcos

FROM: Bill Healy

CENTRAL MOUNTAIN PLAN UPDATE FINAL COURT ORDER

Attached is a memorandum from County Counsel outlining the final order of the Court regarding the permit moratorium, and exemptions from the moratorium, within the Central Mountain Subregional Planning Area. This moratorium will stay in effect until a revised EIR is certified by the Board of Supervisors for the Plan Update.

By order of the Court, the recently adopted Subregional Plan will stay in effect during the moratorium period. The Board will have the opportunity to revise the Plan once the revised EIR has been prepared. We expect that the resource base maps for the EIR may not be available until September. With the Forest Conservation Initiative (FCI) on the ballot in November, it is likely that work on the EIR will not start until the FCI has been decided by the voters.

Please note that there are many exemptions authorized by the Court. These are exemptions from the permit process, and are not to be construed as a Court approval of any project. The exemptions simply allow the County's discretionary process to proceed, unaffected by the moratorium. In fact, since the petitioners Save Our Forest (SOF) objected to most of these exemptions, we might expect SOF to be most critical of those permit requests and their environmental documentations when they get to public hearing.

Please note that the County is preempted from filing or processing applications that have not been exempted, even at the applicant's own risk. We can no longer take these projects in, process them, and simply delay their hearings until the moratorium is lifted. Under the final order, we are preempted from even processing them.

Also note that the Court retains jurisdiction until the revised FEIR is certified. Although the Order is silent on the issue of unforeseen projects, it may be possible to obtain additional exemptions upon showing of good cause as to why an unlisted project should be exempted. In such a case, please see me directly.

However, all such request for additional exemptions will go to County Counsel and then to SOF attorneys for concurrence. If either County Counsel or SOF does not concur, it may end it. Since Court appearances cost money, and getting on the Court's calendar is difficult, we will be very selective on what, if anything, will be carried forward for a decision by the Court. From a practical standpoint, it may be faster and less expensive to not advise applicants that further exemptions appear to be a viable alternative.

Finally, preparation of the revised FEIR is not yet funded by the Board of Supervisors. If any non-exempted applicants wish to see the EIR done expeditiously, they may need to help find the money to assist the County in this effort. Potential contributions towards this effort should be coordinated through me.

If there are any questions regarding these issues, or regarding whether or not a particular project falls within the confines of the exemptions, please see me directly and, if necessary, we will seek clarification from County Counsel.

WTH:

cc: Sharon Reid
Gary Cane
Mike Devine



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 7, 1993

TO: Bill Healy, Deputy Director, Department of Planning and Land Use (0650)
Sharon Reid, Deputy Director, Department of Public Works (0332)

Gary Cane, Department of Public Works (0336)
Mike Devine, Deputy Director, Land Use Division, Health Services (D651C)

FROM: County Counsel (A12)

RE: Save Our Forest and Ranchlands v. County of San Diego;
Superior Court No. 647902

This memo discusses the Final Judgment Issuing Writ of Mandate (Final Judgment) in this case which involves Save Our Forest and Ranchlands' challenge to General Plan Amendment 91-02 and the related environmental impact report (EIR). The injunction discussed below applies only to privately-owned land in the Central Mountain Subregion outside Country Towns. Please contact Bill Healy of the Department of Planning and Land Use at 750-2968 if you need a map that shows the area subject to the injunction.

On July 2, 1993, the court issued a Final Judgment. This Final Judgment prohibits the County of San Diego (the County) from processing applications for, or issuing or approving, building permits, subdivision maps, other lot parcelizations or any activity that could result in a change or alteration to the physical environment of the privately-owned land in the Central Mountain Subregion outside Country Towns.

The injunction, however, does not apply to the following categories of permits and approvals:

1. Building Permits for Single-Family Residences on Lots that were Legally Existing as of May 7, 1993.

The County may issue building permits for single-family residences and accessory structures on existing legal lots. This includes building permits for new single-family residences on vacant lots and building permits for work on existing single-family residences, including expansion of the residence.

Existing legal lots are those lots that were legally created (not in violation of any state statute or County ordinance) as of May 7, 1993, and includes lots on tentative maps approved before May 7, 1993, for which the subsequent final map substantially conforms to the previously approved tentative map.

2. Building Permits for Structures Damaged by Brush Fires.

The County may issue building permits for the repair or rebuilding of structures damaged or destroyed by brush fires occurring in the Central Mountain Subregion.

3. Ministerial Permits.

The County may continue to issue permits for the following ministerial activities.

a. Department of Planning and Land Use.

Building, mechanical, electrical, plumbing, HVAC, mobile home, minor grading in conjunction with a single-family dwelling, certificate of compliance, and boundary adjustment.

b. Health Department.

Pool, food handling, well, trailer, percolation tests, septic tank, underground storage tank, and public water supply.

c. Department of Public Works.

Limited grading (less than 200 cubic yards; or, in conjunction with a single-family residence, roads less than 300 feet in length, approved tentative subdivision maps or tentative parcel maps), approval of improvement plans, centerline ordinance determination, moving or oversize load, excavation or construction or encroachment in public right-of-way or public easement.

Please note that the permits listed in section 3 above may be issued only if they are ministerial permits. A ministerial permit is one that involves the application of fixed standards or criteria to the proposed activity. The County staff member does not exercise his or her discretion or judgment regarding the propriety of the proposed activity or how it is to be carried out if the project conforms to the applicable standards or criteria for issuing the permit. The classic example is building permits. If the building

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plans comply with the Building Code requirements, the building permit is issued.

4. Final Subdivision Maps and Parcel Maps that Conform to Previously Approved Tentative Maps.

The County may approve final subdivision maps and parcel maps that substantially conform to tentative subdivision maps and tentative parcel maps approved on or before May 7, 1993.

5. Approvals and Permits for Specific Proposed Projects and Property.

The County may continue to process the applications and may issue permits for the following proposed projects and property:

- a. Maggio Ranch (TM 5017, MUP 92-007, R 92-010 and SP 92-003);
- b. Stallion Oaks RV/Camping Resort (MUP 86-033W1);
- c. Descanso Oaks RV Park (P 90-028 and S 90-085);
- d. PacTel Communications Facility (MUP 91-051);
- e. US West Cellular Communications Facility (MUP 91-006);
- f. Watercourse Permit ER 92-15-6; and
- g. Heights Land Company's land as shown on the attached map. Note: no applications for permits/approvals have yet been submitted, but the County may accept and process permit applications for this land.

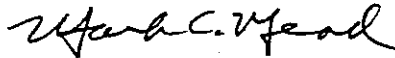
Pursuant to the Final Judgment, the County can no longer process applications for permits or approvals other than those permits and approvals specifically listed in paragraphs 1-5 above. Therefore, the County should not accept applications for permits or approvals other than those permits and approvals listed above.

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If you have any questions about any of these matters, please contact the undersigned at 730-4891.

LLOYD M. HARMON, JR., County Counsel

By



MARK C. MEAD, Deputy

MCM:mcm:ep

92-90063

cc: Lari Sheehan, Deputy Chief Administrative Officer (A6)
William Taylor, Deputy County Counsel

RECEIVED
COUNTY COUNSEL
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COUNTY OF SAN DIEGO 02 1993

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

SAVE OUR FOREST AND RANCHLANDS,)
a California Corporation,)

Case No. 647902

Petitioner,)

v.)

FINAL JUDGMENT
ISSUING WRIT OF MANDATE

COUNTY OF SAN DIEGO, and the)
BOARD OF SUPERVISORS OF THE)
COUNTY OF SAN DIEGO,)

Respondents.)

This matter came on for a bench trial on March 22 through 25, 1993, in Department 20 of the above-entitled court, The Honorable Judith L. Haller, presiding. Charles S. Crandall, Esq. and Thomas Mauriello, Esq. of Milberg, Weiss, Bershad, Hynes & Lerach represented petitioner Save Our Forest and Ranchlands, and Lloyd M. Harmon, Jr., County Counsel, by Lewis P. Zollinger, Deputy, and Mark C. Mead, Deputy, represented respondents County of San Diego and the Board of Supervisors of the County of San Diego.

1 The Court has read the trial memoranda and post-trial memoranda, reviewed the
2 administrative record, examined the exhibits and evaluated the testimony of various fact
3 and expert witnesses and considered the arguments of counsel. The Court has
4 determined that petitioner has met its burden of proof as to the First, Second, Third and
5 Fourth Causes of Action, but has not met its burden of proof as to the Fifth, Sixth,
6 Seventh, Eighth, Ninth, Tenth and Eleventh Causes of Action contained in petitioner's
7 First Amended Petition for Peremptory Writ of Mandate.
8

9 Therefore, for the reasons expressed in the Court's decision filed May 7, 1993,
10 and minute order dated May 11, 1993, judgment is hereby granted as follows:
11

12 A. As to the First, Second, Third and Fourth Causes of Action, judgment
13 granting a writ of mandate is hereby entered in favor of petitioner and against
14 respondents as specified below.

15 1. The environmental impact report ("EIR") for General Plan
16 Amendment ("GPA") 91-02 certified on December 18, 1991, is void and of no effect as
17 it pertains to the "inholdings" of the Central Mountain Subregion located outside
18 Country Towns. As used in this final judgment, "inholdings" means all privately-owned
19 land in the Central Mountain Subregion outside Country Towns.
20

21 2. San Diego County is enjoined from permitting, or processing
22 applications for the issuance of building permits, subdivision maps or approvals, lot
23 parcelizations or any other activity that could result in any change or alteration to the
24 physical environment of the Central Mountain subregion inholdings, unless and until the
25 Board of Supervisors has certified an adequate EIR for the Central Mountain Subregion
26 plan amendment as it pertains to these inholdings.
27

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1 However, this injunction shall not apply to the following:

2 a. Issuance of building permits for single-family residences and
3 accessory uses on lots legally existing as of May 7, 1993.
4

5 This includes building permits for new residences on vacant
6 lots, as well as building permits for work on existing residences. Existing legal lots are
7 lots existing as of May 7, 1993, that were not created in violation of any state statute or
8 county ordinance and includes lots on tentative subdivision maps and tentative parcel
9 maps approved as of May 7, 1993, for which the subsequent final subdivision map and
10 parcel map substantially conforms to the previously approved tentative map.
11

12 b. Issuance of building permits for the repair or rebuilding of
13 structures damaged or destroyed by brush fires occurring in the Central Mountain
14 Subregion;

15 c. Issuance of the following ministerial permits:

16 Department of Planning and Land Use: building,
17 mechanical, electrical, plumbing, HVAC (heating, ventilating and air conditioning),
18 mobile home, minor grading in conjunction with single-family dwelling, certificate of
19 compliance and boundary adjustment.
20

21 Health Department: pool, food handling, well, trailer,
22 percolation tests, septic tank, underground storage tank, and public water supply.

23 Department of Public Works: limited grading (less than 200
24 cubic yards; or, in conjunction with a single-family residence, or for roads less than 300
25 feet in length, or for approved tentative subdivision maps or approved tentative parcel
26 maps), approval of improvement plans, centerline ordinance determinations, moving or
27 oversize load, excavation or construction or encroachment in public right-of-way or
28

1 public easement.

2 d. Approval of final subdivision maps and final parcel maps that
3 conform to tentative subdivision maps and tentative parcel maps, respectively, approved
4 on or before May 7, 1993.

5 e. Issuance of approvals and permits for the following projects
6 that are already in the review process: Maggio Ranch (TM 5017, MUP 92-007, R 92-010
7 and SP 92-003); Stallion Oaks RV/Camping Resort Use Permit Modification (MUP 86-
8 033W1); Descanso Oaks RV Park (P 90-028 and S 90-085); PacTel Communications
9 Facility (MUP 91-051); US West Cellular Communications Facility (MUP 91-006);
10 Watercourse Permit ER 92-15-6; and Heights Land Company.

11 3. The Board of Supervisors shall take steps to cause a new EIR for
12 the Central Mountain Subregion plan amendment to be prepared and certified for the
13 inholdings that complies with the California Environmental Quality Act, Public
14 Resources Code section 21000 et seq.

15 4. This final judgment supersedes the Interim Judgment Issuing Writ
16 of Mandate issued on May 28, 1993.

17 5. The Court maintains jurisdiction pursuant to Public Resources Code
18 Section 21168.9, subdivision (b).

19 B. As to the Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Causes
20 of Action, Judgment is hereby entered in favor of respondents and against petitioner.

21 DATED: JUL 02 1993

22 JUDITH L. HALLER

23 JUDITH L. HALLER
24 Judge of the Superior Court
25
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27
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